

Message Text

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CEA-01 CIAE-00 COME-00 DODE-00 FRB-03 H-02 INR-07

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CIEP-01 SS-15 STR-04 ITC-01 TRSE-00 USIA-06 PRS-01

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COMMERCE:RFRANCIS

LABOR:JCOYLE

TREASURY:AGAULT

AGRICULTURE:KREYNOLDS

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R 260337Z FEB 76

FM SECSTATE WASHDC

TO AMEMBASSY LISBON

AMEMBASSY ATHENS

INFO USDEL MTN GENEVA

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USMISSION EC BRUSSELS

AMEMBASSY MADRID

AMEMBASSY TEL AVIV

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SUBJECT: GSP AND REVERSE PREFERENCES: RATIONALE FOR USG

CRITERIA

REFS: LISBON 780 (NOTAL); ATHENS 1186 (NOTAL)

1. LISBON 780 ASKS FOR RATIONALE FOR THE CRITERIA USED IN DEVELOPING THE PRODUCT LIST CONSTITUTING THE MOST IMPORTANT PRODUCTS SIGNIFICANTLY ADVERSELY AFFECTED BY THE REVERSE PREFERENCES ESTABLISHED BY THE EC-PORTUGAL AGREEMENT. ATHENS 1186 (PARA. 2) ADDRESSES A SIMILAR POINT. THIS TELEGRAM SETS OUT THE RATIONALE.

2. THE CRITERIA BY WHICH THE LIST OF PRODUCTS WAS DERIVED BY THE USG FOR ALL "REVERSE PREFERENCE" COUNTRIES WERE:

-- TEN PERCENT EC SHARE OF IMPORTS.

-- 500,000 DOLLARS OR MORE OF IMPORTS FROM THE UNITED STATES.

-- A PROSPECTIVE SPREAD OF FIVE PERCENTAGE POINTS OR MORE BETWEEN THE RATES APPLIED TO EC PRODUCTS AND U.S.

PRODUCTS DURING THE LIFE OF GSP.

WE USED 1973 TRADE DATA IN THE CASE OF PORTUGAL, BECAUSE THESE WERE THE LATEST AVAILABLE AT THE TIME THE ANALYSIS WAS MADE. IN CASE OF GREECE, WE USED 1970 TRADE DATA FOR INITIAL SELECTION.

3. NEITHER THE TRADE ACT, NOR ITS LEGISLATIVE HISTORY GIVE PRECISE DEFINITIONS OF "SIGNIFICANT ADVERSE EFFECT ON UNITED STATES COMMERCE." ACCORDINGLY, THE EXECUTIVE BRANCH WAS RESPONSIBLE FOR SPECIFYING THIS CONCEPT IN IMPLEMENTING THE LAW. THE APPROACH WAS TO ESTABLISH REASONABLE, SPECIFIC STANDARDS OF MEASURE WHICH AT THE SAME TIME COULD BE EXPLAINED CLEARLY TO THE "REVERSE PREFERENCE" COUNTRIES, TO BUSINESS INTERESTS, AND TO THE CONGRESS. THE CRITERIA WE HAVE CHOSEN TO APPLY ARE DESIGNED TO IDENTIFY PRODUCT CATEGORIES IN WHICH U.S. LIMITED OFFICIAL USE

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HAS A SUBSTANTIAL TRADE INTEREST WITH COUNTRY EXTENDING PREFERENCES, EC-U.S. COMMERCIAL RIVALRY IS ACTIVE, AND THE PREFERENCE MARGIN IS SIGNIFICANT.

4. THE SPECIFIC BENCHMARKS USED--500 THOUSAND DOLLARS, TEN PERCENT EC IMPORT SHARE AND 5 PERCENTAGE POINT PREFERENCE MARGIN--REPRESENT THE BEST JUDGMENT BY THE EXECUTIVE BRANCH OF WHEN "SIGNIFICANT ADVERSE EFFECT"

OCCURS. ARGUMENTS FOR MORE LENIENT STANDARDS WOULD PROBABLY BE MET BY ARGUMENTS FOR STRICTER STANDARDS.

5. WE WISH TO POINT OUT THAT IDENTIFICATION OF "SIGNIFICANTLY ADVERSELY AFFECTED" PRODUCTS IS JUDGMENT WHICH USG REQUIRED TO MAKE ITSELF AND THEREFORE WE DO NOT INTEND TO ENGAGE IN AN EXTENSIVE ITEM-BY-ITEM JUSTIFICATION OF THE PRODUCT LIST IN DEALING WITH QUESTION OF COUNTRY ELIGIBILITY FOR GSP. FYI: IF THERE WERE A SATISFACTORY DEMONSTRATION, ON A CASE-BY-CASE BASIS, THAT THERE IS NO SIGNIFICANT ADVERSE EFFECT ON U.S. EXPORTS, WE WOULD, OF COURSE, CONSIDER THE MATTER. OUR EXPERIENCE SUGGESTS, HOWEVER, THAT SUCH A CONCRETE DEMONSTRATION WOULD BE DIFFICULT, AND WE DO NOT WANT TO ENCOURAGE THE REVERSE PREFERENCE COUNTRIES TO PURSUE THIS APPROACH.
END FYI.

6. THE SAME CRITERIA WERE USED IN OUR DISCUSSIONS WITH OTHER "REVERSE PREFERENCE" COUNTRIES (I.E., SPAIN AND ISRAEL). THUS, MODIFICATION OF OUR APPROACH TO DEFINING "SIGNIFICANT ADVERSE EFFECT ON U.S. COMMERCE" IN ANY PARTICULAR CASE MIGHT BE VIEWED AS INEQUITABLE BY OTHER "REVERSE PREFERENCE" COUNTRIES AND WOULD PROBABLY REQUIRE THAT THE MODIFICATION BE EXTENDED TO COUNTRIES WITH WHICH WE HAVE ALREADY HAD EXTENSIVE CONSULTATIONS.

7. IN PRESENTING DRAFT NOTES TO THE VARIOUS GOVERNMENTS, WE SUGGESTED THAT THE DOLLAR CRITERION BE SET AT 250 THOUSAND DOLLARS OF U.S. EXPORTS PER TARIFF CATEGORY. THE LOWER CRITERION WAS TO ENSURE THAT, ONCE A PREFERENCE MARGIN WAS ELIMINATED, IT WOULD NOT RECUR UNLESS OUR EXPORTS DECLINED SUBSTANTIALLY. KISSINGER
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